

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 833

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO ELECTIONS; UPDATING PROVISIONS IN THE ELECTION CODE  
TO COMPORT WITH THE USE OF PAPER BALLOTS; REMOVING REFERENCES  
TO EMERGENCY PAPER BALLOTS FROM THE ELECTION CODE; PROVIDING  
FOR THE HANDLING OF PAPER BALLOTS; AMENDING, REPEALING AND  
RECOMPILING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-1-6 NMSA 1978 (being Laws 1977,  
Chapter 222, Section 1, as amended) is amended to read:

"1-1-6. RECHECK AND RECOUNT.--As used in the Election  
Code:

A. "recheck" pertains to electronic vote tabulating  
systems and means a verification procedure whereby a printout  
of the electronic record of votes cast in an election is made  
from each electronic memory device in the electronic vote

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underscored material = new  
[bracketed material] = delete

1 tabulating system and the results are compared with the results  
2 shown on the official returns; and

3 B. "recount" pertains to [~~emergency~~] all paper  
4 ballots, including absentee ballots, provisional paper ballots,  
5 optical scan paper ballots and any other paper ballot and means  
6 a verification procedure whereby the voters' selections for an  
7 office are [~~retabulated by feeding the ballots into an~~  
8 ~~electronic vote tabulating system, and the voters' selections~~  
9 ~~on ballots that cannot be read by the system are counted by~~  
10 ~~hand~~] retallied and the results compared with the results shown  
11 on the official returns."

12 Section 2. Section 1-2-12 NMSA 1978 (being Laws 1969,  
13 Chapter 240, Section 32, as amended) is amended to read:

14 "1-2-12. PRECINCT BOARD--NUMBER FOR EACH PRECINCT--  
15 MULTIPARTISAN.--

16 A. When absentee ballots are counted, the precinct  
17 board shall consist of:

- 18 (1) a presiding judge;  
19 (2) one election judge from each of the major  
20 political parties;  
21 (3) one clerk from each of the major political  
22 parties; and  
23 (4) if a major party has no registered,  
24 qualified elector who is able to fill the position as election  
25 judge or election clerk, a registered, qualified elector from

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1 another major party, chosen by the county clerk to fill the  
2 vacant position.

3 B. ~~[When one voting machine is to be used in a~~  
4 ~~precinct]~~ For primary, general and special federal elections,  
5 the precinct board shall consist of:

6 (1) a presiding judge;

7 (2) two election judges who shall be of  
8 different major political parties; and

9 (3) one election clerk who shall be of a  
10 different political party than the presiding judge.

11 C. ~~[When two voting machines are to be used in a~~  
12 ~~precinct]~~ For all other elections, the precinct board shall  
13 consist of:

14 (1) a presiding judge;

15 (2) ~~[two]~~ one election ~~[judges who shall be of~~  
16 ~~different political parties]~~ judge; and

17 (3) ~~[two]~~ one election ~~[clerks who shall be of~~  
18 ~~different political parties]~~ clerk.

19 ~~[D. When three voting machines are used in a~~  
20 ~~precinct, the precinct board shall consist of:~~

21 ~~(1) a presiding judge;~~

22 ~~(2) two election judges who shall be of~~  
23 ~~different political parties; and~~

24 ~~(3) three election clerks, not more than two~~  
25 ~~of whom shall belong to the same political party.~~

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1           ~~E.]~~ D. If the county clerk determines that  
2 additional election clerks are needed in a precinct, the clerk  
3 may appoint such additional election clerks as ~~[he]~~ the clerk  
4 deems necessary; provided, however, that such appointments for  
5 partisan elections shall be made in the manner that provides  
6 for representation from all major political parties.

7           ~~[F.]~~ E. In addition to the members of the precinct  
8 board provided for in this section, the county clerk may  
9 appoint an additional election clerk for the purpose of making  
10 changes in the certificate of registration of any voter who has  
11 voted in that election at the polling place."

12           Section 3. Section 1-2-23 NMSA 1978 (being Laws 1969,  
13 Chapter 240, Section 42, as amended) is amended to read:

14           "1-2-23. CHALLENGERS--PERMITTED ACTIVITIES.--

15           A. A challenger or alternate challenger, upon  
16 presentation of ~~[his]~~ the written appointment to the precinct  
17 board, shall be permitted to be present from the time the  
18 precinct board convenes at the polling place until the  
19 completion of the counting and tallying of the ballots after  
20 the polls close.

21           B. A challenger or alternate challenger, for the  
22 purpose of interposing challenges, may:

23                   (1) inspect the registration book or precinct  
24 voter list for the purpose of determining whether ~~[he]~~ the  
25 challenger or alternate challenger desires to interpose a

1 challenge;

2 (2) inspect the poll books, registration book  
3 or signature rosters to determine whether entries are being  
4 made in accordance with the Election Code;

5 (3) examine each voting machine before the  
6 polls are opened to compare the number on the metal seal and  
7 the numbers on the counters with the numbers on the key  
8 envelope and to see [~~that all ballot labels are in their proper~~  
9 ~~places and~~] that the voting machine is ready for voting at the  
10 opening of the polls; and

11 (4) make in any polling place and preserve for  
12 future reference written memoranda of any action or omission on  
13 the part of any member of the precinct board."

14 Section 4. Section 1-6-7 NMSA 1978 (being Laws 1969,  
15 Chapter 240, Section 133, as amended) is amended to read:

16 "1-6-7. FORM OF ABSENTEE BALLOT.--As soon as candidates  
17 and questions to be voted upon have been determined for each  
18 election, the county clerk shall procure a supply of suitable  
19 absentee ballots. The absentee ballots shall be numbered and  
20 shall be, as nearly as possible, in the same form as prescribed  
21 by the secretary of state for [~~emergency~~] paper ballots.

22 However, to reduce weight and bulk for transport of absentee  
23 ballots, the size and weight of the paper for envelopes,  
24 ballots and instructions shall be reduced as much as possible.  
25 Absentee ballots shall be printed at least forty-five days

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1 prior to the date of a primary election and forty-nine days  
2 prior to the date of a general election. Absentee ballots for  
3 any other election shall be printed at least thirty-five days  
4 prior to the date of the election."

5 Section 5. Section 1-6-15 NMSA 1978 (being Laws 1977,  
6 Chapter 222, Section 13, as amended) is amended to read:

7 "1-6-15. CANVASS--RECOUNT OR RECHECK--DISPOSITION.--If  
8 voting machines are not used to register absentee ballots, the  
9 absentee ballots shall be canvassed, recounted and disposed of  
10 in the manner provided by the Election Code for the canvassing,  
11 recounting and disposition of [~~emergency~~] paper ballots. If  
12 voting machines are used to register absentee ballots, the  
13 ballots shall be canvassed and rechecked in the manner provided  
14 by the Election Code for the canvassing and recheck of ballots  
15 cast on a voting machine; provided, in the event of a contest,  
16 voting machines used to register absentee ballots shall not be  
17 rechecked but the absentee ballots shall be recounted in the  
18 manner provided by the Election Code for the recounting of  
19 [~~emergency~~] paper ballots. As used in this section, "voting  
20 machines" means electronic voting machines as provided in the  
21 Election Code."

22 Section 6. Section 1-6-16.1 NMSA 1978 (being Laws 1989,  
23 Chapter 368, Section 1, as amended) is amended to read:

24 "1-6-16.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN NOT  
25 TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND COUNTING.--

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1           A. A voter who applies for an absentee ballot but  
2 has not received the absentee ballot by mail as of the date of  
3 the election may [~~present himself at his~~] go to the voter's  
4 assigned polling place and, after executing an affidavit of  
5 nonreceipt of absentee ballot, shall be permitted to vote on  
6 [~~an emergency~~] a replacement absentee paper ballot.

7           B. The completed ballot shall be placed in an  
8 official inner envelope substantially as prescribed by Section  
9 1-6-8 NMSA 1978 and sealed. The official inner envelope shall  
10 then be placed in an official envelope substantially as  
11 prescribed for a transmittal envelope or mailing envelope in  
12 Section 1-6-8 NMSA 1978. This envelope shall contain a form on  
13 its back that identifies the voter by name and signature roster  
14 number and a printed statement to the effect that the voter  
15 made application for an absentee ballot but had not received it  
16 as of the date of the election and is permitted to vote by  
17 [~~emergency~~] replacement absentee paper ballot.

18           C. The presiding [~~election~~] judge shall put all  
19 replacement absentee ballots in a special envelope provided for  
20 that purpose by the county clerk, seal it and return it to the  
21 county clerk along with the machine tally sheets. The sealed  
22 envelope shall not be put in the locked ballot box.

23           D. Upon receipt of the envelope containing  
24 replacement absentee ballots, the county clerk, no later than  
25 forty-eight hours after the close of the election, shall remove

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1 the transmittal envelopes and, without removing or opening the  
2 inner envelopes, determine that:

3 (1) ~~[if a]~~ the voter did in fact make  
4 application for an absentee ballot; and

5 (2) ~~[if an]~~ no absentee ballot was received by  
6 the county clerk from the voter by 7:00 p.m. on election day.

7 E. Upon making that determination, the county clerk  
8 shall remove the inner envelope without opening it, retain the  
9 transmittal envelope with the other election returns and place  
10 the inner unopened envelope in a secure container to be  
11 transmitted to the county canvassing board to be tallied and  
12 included in the canvass of that county for the appropriate  
13 precinct.

14 F. The secretary of state shall prescribe and  
15 furnish the necessary envelopes for purposes of this section  
16 and shall adopt rules ~~[and regulations]~~ deemed necessary to  
17 preserve the secrecy of the ~~[emergency]~~ replacement absentee  
18 paper ballots."

19 Section 7. Section 1-8-36.1 NMSA 1978 (being Laws 1981,  
20 Chapter 156, Section 1, as amended) is amended to read:

21 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

22 A. Write-in candidates are permitted in the primary  
23 election only for the offices of United States representative,  
24 members of the legislature, district judges, district  
25 attorneys, public regulation commission, ~~[state board of~~

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1 ~~education]~~ public education commission, magistrates and any  
2 office voted upon by all voters of the state.

3 B. A person may be a write-in candidate only for  
4 nomination by the major political party with which ~~[he]~~ the  
5 person is affiliated as shown by ~~[his]~~ the certificate of  
6 registration, and such person shall have the qualifications to  
7 be a candidate in the primary election for the political party  
8 for which ~~[he]~~ the person is a write-in candidate.

9 C. A person desiring to be a write-in candidate for  
10 one of the offices listed in Subsection A of this section in  
11 the primary election shall file with the proper filing officer  
12 a declaration of intent to be a write-in candidate. Such  
13 declaration of intent shall be filed before 5:00 p.m. on the  
14 second Tuesday in March.

15 D. A write-in vote shall be counted and canvassed  
16 only if:

17 (1) the name written in is the name of a  
18 declared write-in candidate and shows two initials and last  
19 name; first name, middle initial or name and last name; first  
20 and last name; or the full name as it appears on the  
21 declaration of intent to be a write-in candidate and  
22 misspellings of the above combinations that can be reasonably  
23 determined by a majority of the members of the precinct board  
24 to identify a declared write-in candidate; and

25 (2) the name is written ~~[in the proper slot on~~

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1 ~~the voting machine or~~ on the proper line provided on [~~an~~  
2 ~~absentee ballot or emergency paper~~] the ballot for write-in  
3 votes for the office for which the candidate has filed a  
4 declaration of intent and the voter has followed the directions  
5 for casting a vote for the write-in candidate.

6 E. At the time of filing the declaration of intent  
7 to be a write-in candidate, the write-in candidate shall be  
8 considered a candidate for all purposes and provisions relating  
9 to candidates in the Election Code, including the obligations  
10 to report pursuant to the Campaign Reporting Act, except that  
11 [~~he shall not be entitled to have his~~] the write-in candidate's  
12 name shall not be printed on the ballot.

13 F. No unopposed write-in candidate shall have [~~his~~]  
14 the write-in candidate's nomination certified unless [~~he~~] the  
15 write-in candidate receives at least the number of write-in  
16 votes in the primary election as [~~he~~] the write-in candidate  
17 would need signatures on a nominating petition pursuant to the  
18 requirements set out in Section 1-8-33 NMSA 1978.

19 G. A write-in vote shall be cast by writing in the  
20 name and following the directions for casting a vote for the  
21 write-in candidate. As used in this section, "write-in" does  
22 not include the imprinting of any name by rubber stamp or  
23 similar device or the use of preprinted stickers or labels."

24 Section 8. Section 1-10-1 NMSA 1978 (being Laws 1977,  
25 Chapter 222, Section 24, as amended) is amended to read:

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1 "1-10-1. BALLOT.--As used in the Election Code:

2 A. "ballot" means a system for arranging and  
3 designating for the voter the names of candidates,  
4 constitutional amendments and other questions to be voted on  
5 and for the marking, casting or otherwise recording of such  
6 votes, and the term includes absentee ballots, [~~ballot labels,~~  
7 ~~ballot cards, ballot sheets~~] provisional paper ballots and  
8 [~~emergency~~] all other paper ballots;

9 [~~B. "ballot label" means that portion of cardboard,~~  
10 ~~paper or other material placed on the front of the voting~~  
11 ~~machine containing the names of the candidates, the offices the~~  
12 ~~candidates are seeking, a statement of the proposed~~  
13 ~~constitutional amendment or other question or proposition to be~~  
14 ~~voted upon;~~

15 C. ~~"emergency paper ballot" means the paper ballot~~  
16 ~~used in the circumstances covered under Section 1-12-43 NMSA~~  
17 ~~1978;~~

18 D. ~~"ballot card" means a card upon which votes may~~  
19 ~~be recorded by use of a pen or pencil for tabulation in an~~  
20 ~~electronic vote tabulating machine;~~

21 E. ~~"ballot sheet" means the sheet used on an~~  
22 ~~electronic vote recording and tabulating machine containing the~~  
23 ~~offices, candidates and questions to be voted on] and~~

24 [~~F.~~] B. "provisional paper ballot" means the paper  
25 ballot used pursuant to Section [~~1-5-10 or~~] 1-12-7.1, 1-12-8  
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1 ~~[NMSA 1978]~~ or ~~[Section 3 of this 2003 act]~~ 1-12-25.2 NMSA  
2 1978."

3 Section 9. Section 1-10-5 NMSA 1978 (being Laws 1977,  
4 Chapter 222, Section 28) is amended to read:

5 "1-10-5. BALLOTS--PRINTING.--~~[Ballot labels]~~ Ballots  
6 shall be printed and in the hands of the county clerk at least  
7 ~~[thirty]~~ forty days before the election."

8 Section 10. Section 1-12-44 NMSA 1978 (being Laws 1977,  
9 Chapter 222, Section 47, as amended) is recompiled in Chapter  
10 1, Article 10 NMSA 1978 and is amended to read:

11 "~~[EMERGENCY SITUATIONS--EMERGENCY]~~ PAPER BALLOTS--GENERAL  
12 REQUIREMENTS.--~~[Emergency]~~ Paper ballots ~~[used in the primary~~  
13 ~~and general elections]~~ shall:

14 A. be numbered consecutively ~~[for each precinct,~~  
15 ~~beginning with number one. The number shall be printed in the~~  
16 ~~upper right hand corner of the ballot with a diagonal~~  
17 ~~perforated line so placed that the portion of the ballot~~  
18 ~~bearing the number in the upper right hand corner may be~~  
19 ~~readily and easily detached from the emergency paper ballot];~~

20 B. be uniform in size;

21 C. be printed on good quality white paper;

22 D. be printed in plain black type;

23 ~~[E. have all words, phrases and the names of the~~  
24 ~~candidates printed in their proper places; and~~

25 ~~F.]~~ E. have the ~~[legislative district, commissioner~~

1 ~~district and~~] precinct numbers printed on each [~~emergency~~]  
2 paper ballot; and

3 F. be in the form prescribed by the secretary of  
4 state."

5 Section 11. Section 1-12-47 NMSA 1978 (being Laws 1977,  
6 Chapter 222, Section 50) is recompiled in Chapter 1, Article 10  
7 NMSA 1978 and is amended to read:

8 "~~[EMERGENCY SITUATIONS--EMERGENCY]~~ PAPER BALLOTS--WRITE-IN  
9 CANDIDATES.--~~[Where space is allowed on an emergency paper~~  
10 ~~ballot]~~ When a write-in candidate has been certified pursuant  
11 to the Election Code, a space for entering the name of [a] the  
12 write-in candidate [that space] shall be clearly designated by  
13 the use of the heading "Write-in Candidate" after the listing  
14 of other candidates for that office."

15 Section 12. Section 1-12-49 NMSA 1978 (being Laws 1977,  
16 Chapter 222, Section 52) is recompiled in Chapter 1, Article 10  
17 NMSA 1978 and is amended to read:

18 "~~[EMERGENCY SITUATIONS]~~ PAPER BALLOTS--ELECTION  
19 SUPPLIES.--The secretary of state shall provide for the  
20 procurement of [emergency] paper ballot election supplies."

21 Section 13. Section 1-10-8.1 NMSA 1978 (being Laws 1981,  
22 Chapter 166, Section 1, as amended) is amended to read:

23 "1-10-8.1. GENERAL ELECTION--PARTY POSITION ON BALLOT.--

24 A. The order of preference for position on the  
25 [~~voting machines, emergency paper ballots and absentee] ballots~~

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1 of the candidates of political parties in the general election  
2 shall be determined by lot at the time and in the manner  
3 prescribed by the secretary of state.

4 ~~[B. The order of preference of major political~~  
5 ~~parties for purposes of this section shall be: first, the top~~  
6 ~~row with the offices proceeding from left to right across the~~  
7 ~~lever voting machine or paper ballot; second, the second row~~  
8 ~~with the offices proceeding from left to right across the~~  
9 ~~machine or paper ballot; and thereafter, consecutively down~~  
10 ~~each row in the same manner until all major parties and their~~  
11 ~~candidates are positioned on the ballot.~~

12 ~~C. The order of preference of minor political~~  
13 ~~parties for purposes of this section in the positions below the~~  
14 ~~major parties on the machine or ballot shall be: first, the~~  
15 ~~top row with the offices proceeding from left to right across~~  
16 ~~the machine or paper ballot; second, the second row with the~~  
17 ~~offices proceeding from left to right across the machine or~~  
18 ~~paper ballot; and thereafter, consecutively down each row in~~  
19 ~~the same manner until all minor parties and their candidates~~  
20 ~~are positioned on the ballot.~~

21 ~~D. Where lever voting machines are used, the sample~~  
22 ~~ballot posted in the polling place shall reflect the actual~~  
23 ~~positioning of parties on the voting machine in that precinct.~~  
24 ~~The secretary of state may require that sample ballots~~  
25 ~~distributed to each polling place reflect the actual~~

underscoring material = new  
[bracketed material] = delete

1 ~~positioning of parties on the voting machines used in that~~  
 2 ~~precinct.~~

3 ~~E.]~~ B. When electronic vote recording and  
 4 tabulating machines or electronic vote tabulating machines are  
 5 used, the offices and candidates shall be printed on the ballot  
 6 [~~sheet or ballot card~~] in a vertical position with the order of  
 7 preference being from top to bottom.

8 [~~F.]~~ C. When [~~emergency~~] paper ballots [~~and~~  
 9 ~~absentee ballots~~] are used in a general election, such ballots  
 10 shall be printed and bound so that the ballots for each  
 11 precinct shall reflect the actual positioning of parties as  
 12 they appear on [~~the voting machines~~] all ballots in that  
 13 precinct.

14 [~~G.]~~ D. The secretary of state shall prescribe  
 15 procedures and publish instructions to carry out the provisions  
 16 of this section."

17 Section 14. Section 1-10-11 NMSA 1978 (being Laws 1969,  
 18 Chapter 240, Section 210, as amended) is amended to read:

19 "1-10-11. SAMPLE BALLOTS--PENALTY.--

20 [~~A. After the official ballot labels are arranged~~  
 21 ~~for voting purposes, the county clerk shall provide sample~~  
 22 ~~ballots which shall show the entire front of the voting machine~~  
 23 ~~as it will appear for voting purposes on election day.~~

24 ~~B.]~~ The county clerk shall provide at least four  
 25 sample ballots for use in each precinct. Two of the sample

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1 ballots shall be displayed for public inspection on the outside  
2 of the polling place and two on the inside. The sample ballots  
3 shall be displayed throughout election day. It is a petty  
4 misdemeanor for any person to deface, alter, remove or in any  
5 way destroy the sample ballots displayed for public inspection  
6 at the polling place during the hours the election is being  
7 conducted."

8 Section 15. Section 1-12-19.1 NMSA 1978 (being Laws 1981,  
9 Chapter 156, Section 2, as amended) is amended to read:

10 "1-12-19.1. GENERAL ELECTIONS--SPECIAL ELECTIONS--WRITE-  
11 IN CANDIDATES.--

12 A. A person desiring to be a write-in candidate in  
13 a special election for United States representative or a  
14 statewide special election shall file with the proper filing  
15 officer a declaration of intent to be a write-in candidate.  
16 The declaration of intent shall be filed between 9:00 a.m. and  
17 5:00 p.m. on the sixty-third day immediately preceding the  
18 election. A person desiring to be a write-in candidate in a  
19 general election shall file the declaration of intent between  
20 9:00 a.m. and 5:00 p.m. on the day after the primary election.

21 B. The form of the declaration of intent shall be  
22 prescribed by the secretary of state and shall contain a sworn  
23 statement by the candidate that the candidate is qualified to  
24 be a candidate for and to hold the office for which the  
25 candidate is filing.

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1           C. At the time of filing the declaration of intent  
2 to be a write-in candidate, the write-in candidate shall be  
3 considered a candidate for all purposes and provisions relating  
4 to candidates in the Election Code, including the obligation to  
5 report under the Campaign Reporting Act, except that the  
6 candidate shall not be entitled to have the candidate's name  
7 printed on the ballot.

8           D. The secretary of state shall, not less than  
9 [~~ten~~] forty days before the general election, certify the names  
10 of the declared write-in candidates to the county clerks of  
11 every county affected by such candidacy.

12           E. No person shall be a write-in candidate in the  
13 general election who was a candidate in the primary election  
14 immediately prior to the general election.

15           F. A vote for a write-in candidate shall be counted  
16 and canvassed only if:

17                   (1) the name written in is the name of a  
18 declared write-in candidate and shows two initials and last  
19 name; first name, middle initial or name and last name; first  
20 and last name; or the full name as it appears on the  
21 declaration of intent to be a write-in candidate and  
22 misspellings of the above combinations that can be reasonably  
23 determined by a majority of the members of the precinct board  
24 to identify a declared write-in candidate; and

25                   (2) the name is written in the proper office

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1 ~~[or entered upon the keyboard on the voting machine or]~~ on the  
2 proper line provided on ~~[a marksense ballot, absentee ballot or~~  
3 ~~emergency paper]~~ the ballot for write-in votes for the office  
4 for which the candidate has filed a declaration of intent and  
5 the voter has followed the directions for casting a vote for  
6 the write-in candidate.

7 G. No unopposed write-in candidate shall have an  
8 election certified unless the candidate receives at least the  
9 number of write-in votes as the candidate would need signatures  
10 on a nominating petition pursuant to the requirements in  
11 Section 1-8-33 NMSA 1978.

12 H. A write-in vote shall be cast by writing in the  
13 name. As used in this section, "write-in" does not include the  
14 imprinting of any name by rubber stamp or similar device or the  
15 use of preprinted stickers or labels."

16 Section 16. Section 1-12-25.1 NMSA 1978 (being Laws 1991,  
17 Chapter 105, Section 30) is amended to read:

18 "1-12-25.1. PROCEDURES FOR VOTING ON ~~[LEVER]~~ ELECTRONIC  
19 ~~[AND MARKSENSE VOTING MACHINES]~~ VOTE TABULATOR SYSTEMS.--[A.] A  
20 voter [voting on a lever type machine] using an electronic vote  
21 tabulator system to vote shall:

22 ~~[(1) enter the machine and push the red handle~~  
23 ~~to the left to close the curtain;~~

24 ~~(2) set the pointer directly under the~~  
25 ~~candidate's name or question on which he desires to vote; and~~

1                   ~~(3) make all selections and pull the red~~  
2 ~~handle to the right to open the curtain and record his vote.~~

3                   ~~B. A voter voting on a direct recording electronic~~  
4 ~~machine shall:~~

5                   ~~(1) enter the machine;~~

6                   ~~(2) press the square to the right of the~~  
7 ~~candidate's name or question on which he desires to vote; and~~

8                   ~~(3) make all selections and press the vote~~  
9 ~~button in the lower right hand corner of the voting machine to~~  
10 ~~record his vote.~~

11                   ~~C. A voter voting on a marksense machine shall~~

12                   ~~(1)] A. receive a ballot issued by the precinct~~  
13 ~~board;~~

14                   ~~[(2)] B. take the ballot to a voting booth and,~~  
15 ~~with the [pencil] writing utensil provided, mark it [by~~  
16 ~~completing the arrow to the right of the candidate's name or~~  
17 ~~question on which he desires to vote] in accordance with the~~  
18 ~~instructions for that ballot type; and~~

19                   ~~[(3) make all selections and] C. feed the ballot~~  
20 ~~into the [machine] electronic vote tabulator to record [his]~~  
21 ~~the vote."~~

22                   Section 17. Section 1-12-31 NMSA 1978 (being Laws 1969,  
23 Chapter 240, Section 291, as amended) is amended to read:

24                   "1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT  
25 BOXES AND OTHER ELECTION MATERIALS.--

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1           A. The following election returns and materials  
2 shall not be placed in the ballot box and shall be returned  
3 immediately to the county clerk along with the locked box:

- 4                   (1) one ballot box key in an envelope  
5 addressed to the county clerk;  
6                   (2) one signature roster;  
7                   (3) one tally sheet;  
8                   (4) the registration binder;  
9                   (5) all unused election supplies not destroyed  
10 pursuant to the Election Code; and  
11                   (6) a machine cartridge for any electronic [~~or~~  
12 ~~marksense machine~~] vote tabulator.

13           B. [~~In the event emergency paper ballots have been~~  
14 ~~voted~~] The election judge of the party different from that of  
15 the presiding judge shall place the other ballot box key in the  
16 envelope addressed to the district court and immediately mail  
17 it to the district court."

18           Section 18. Section 1-12-37.1 NMSA 1978 (being Laws 2002,  
19 Chapter 51, Section 1) is amended to read:

20           "1-12-37.1. BALLOTS--REMEDY FOR USE OF INCORRECT  
21 BALLOTS.--

22                   A. As used in this section, "incorrect ballot"  
23 means an election ballot that fails to list the correct  
24 candidate for an office.

25                   B. If an incorrect ballot is discovered after

1 eligible voters have used the incorrect ballot to cast their  
2 votes, the precinct board shall:

3 (1) lock and seal the voting machine on which  
4 the incorrect ballot appears to prevent further voting on that  
5 machine, at which time that machine shall be considered  
6 disabled;

7 (2) preserve a record of the voters who voted  
8 using the incorrect ballot by marking the vote number shown on  
9 the public counter of the voting machine on both the copy of  
10 the voter list marked for the secretary of state and the  
11 signature roster; and

12 (3) attach a note to the voter list marked for  
13 the secretary of state and the signature roster giving the  
14 number of the last voter who voted using the incorrect ballot  
15 [~~and~~

16 ~~(4) if necessary, use emergency paper ballots~~  
17 ~~pursuant to Section 1-12-43 NMSA 1978].~~

18 C. The precinct board shall notify the county clerk  
19 and the secretary of state of the incorrect ballot and of the  
20 precinct board's compliance with the provisions of this section  
21 no later than one hour after the polls close.

22 D. The votes recorded on the voting machine that  
23 was locked and sealed pursuant to Subsection B of this section  
24 shall be tallied with the votes from valid ballots from the  
25 precinct, except that the votes for incorrect candidates shall

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1 not be tallied. Written notice of this procedure and a  
2 statement of the number of voters who voted using the incorrect  
3 ballot shall be sent to the secretary of state and the county  
4 clerk after the signature roster is properly certified.

5 E. If a candidate contests the election results and  
6 the court finds that the number of eligible voters who relied  
7 on incorrect ballots is great enough to affect the outcome of  
8 that candidate's race, the court may order the county clerk to  
9 send ballots for that candidate's race to those voters who  
10 voted using an incorrect ballot.

11 F. The ballots prescribed in Subsection E of this  
12 section shall list the names of the candidates and office for  
13 the race in question, be in a form substantially similar to  
14 absentee ballots as prescribed by the secretary of state and:

15 (1) indicate the number of voters that are  
16 eligible to vote in the court-ordered vote;

17 (2) give the reason the voter is being asked  
18 to vote;

19 (3) indicate that the voter must return the  
20 ballot within fourteen days of receiving it;

21 (4) be mailed to the voter by certified mail,  
22 return receipt requested; and

23 (5) be mailed with a prepaid return envelope  
24 addressed to the county clerk of the county within which the  
25 voter's precinct lies.

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1           G. Returned ballots shall be opened, counted and  
 2 tallied by the county clerk in the presence of the district  
 3 court judge or ~~[his]~~ the district court judge's representative  
 4 and the results added to the candidates' respective vote totals  
 5 and reported to the court and the secretary of state. Ballots  
 6 not received by the county clerk within eighteen days of the  
 7 county clerk's mailing shall not be counted."

8           Section 19. Section 1-12-43 NMSA 1978 (being Laws 1977,  
 9 Chapter 222, Section 46) is amended to read:

10           "1-12-43. EMERGENCY SITUATIONS [~~EMERGENCY PAPER BALLOTS--~~  
 11 ~~WHEN USED~~].--

12           A. If any [~~voting machine~~] electronic vote  
 13 tabulator becomes disabled while being used to the extent that  
 14 any voter is unable to cast a vote for all the candidates or  
 15 questions of ~~[his]~~ the voter's choice and have such vote  
 16 recorded by the [~~machine~~] electronic vote tabulator, it shall  
 17 be repaired, if possible, or another [~~voting machine~~]  
 18 electronic vote tabulator shall be promptly substituted.

19           B. The board of county commissioners shall  
 20 appropriate funds for servicing, repairing and substituting  
 21 [~~voting machines~~] electronic vote tabulators that become  
 22 disabled.

23           C. If a disabled [~~voting machine~~] electronic vote  
 24 tabulator cannot be repaired in a reasonable length of time and  
 25 if there are no other [~~voting machines~~] electric vote

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1 tabulators available for substitution, the presiding judge  
2 shall order [~~emergency paper~~] marked ballots to be [~~substituted~~  
3 ~~and used~~] collected and securely preserved until they may be  
4 tabulated pursuant to rules promulgated by the secretary of  
5 state.

6 D. A voter shall not be denied the opportunity to  
7 mark a ballot for later tabulation due to the lack of a  
8 functioning electronic vote tabulator.

9 [~~D.~~] E. The county clerk shall provide additional  
10 [~~emergency paper~~] ballots if needed and when requested by the  
11 precinct board."

12 Section 20. Section 1-12-51 NMSA 1978 (being Laws 1977,  
13 Chapter 222, Section 54) is amended to read:

14 "1-12-51. [~~EMERGENCY SITUATIONS~~] PAPER BALLOTS--  
15 UNAUTHORIZED RECEIPT OR DELIVERY OF [EMERGENCY] PAPER BALLOT.--  
16 Except for absentee ballots and unless otherwise provided by  
17 law, a voter shall not receive [an emergency] a paper ballot  
18 from any person other than from a member of the precinct board  
19 of the polling place where [he] the voter is authorized to vote  
20 or at an alternate early voting location. No person other than  
21 a member of the precinct board or officer authorized by law  
22 shall deliver [~~an emergency~~] a paper ballot to any voter."

23 Section 21. Section 1-12-55 NMSA 1978 (being Laws 1977,  
24 Chapter 222, Section 58, as amended) is amended to read:

25 "1-12-55. [~~EMERGENCY SITUATIONS--EMERGENCY~~] PAPER

1     BALLOTS--~~[USE OF PEN]~~ MARKING.--All ~~[crosses or checks]~~ marks  
 2     on the ~~[emergency]~~ paper ballot shall be made only with ~~[pen.~~  
 3     The ~~cross used in marking emergency paper ballots shall be two~~  
 4     ~~lines intersecting at any angle within the circle or box. The~~  
 5     ~~check shall be a "V" shaped mark with it being permissible for~~  
 6     ~~either side of the "V" being longer than the other side. Any~~  
 7     ~~mark discernible either as a cross or a check, whether or not~~  
 8     ~~any of the lines extend outside the circle or box, shall be~~  
 9     ~~counted as a valid marking of the ballot]~~ the recommended or  
 10    provided marking device."

11           Section 22. Section 1-12-57 NMSA 1978 (being Laws 1977,  
 12    Chapter 222, Section 60) is amended to read:

13           "1-12-57. ~~[EMERGENCY SITUATIONS--EMERGENCY]~~ PAPER  
 14    BALLOTS--PROCEDURE AFTER MARKING.--After marking and preparing  
 15    ~~[his emergency]~~ a paper ballot in a polling place or alternate  
 16    voting location, the voter:

17           ~~[A. shall, before leaving the voting machine, fold~~  
 18    ~~his ballot so that the number on the ballot appears on the~~  
 19    ~~outside, without displaying the marks on its face, and he shall~~  
 20    ~~keep it folded until he has voted;~~

21           ~~B.]~~ A. shall not show it to any person in such a  
 22    way as to reveal its contents; and

23           ~~[C.]~~ B. shall ~~[deliver it to the presiding judge~~  
 24    ~~who shall then detach the visible number on the ballot, hand it~~  
 25    ~~to the voter, then deposit the emergency]~~ feed the paper ballot

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1 ~~[in the ballot box in the presence of the voter]~~ into the  
2 electronic vote tabulator."

3 Section 23. Section 1-12-58 NMSA 1978 (being Laws 1977,  
4 Chapter 222, Section 61) is amended to read:

5 "1-12-58. [~~EMERGENCY SITUATIONS--EMERGENCY~~] PAPER  
6 BALLOTS--DELIVERY OF TWO OR MORE BALLOTS [~~FOLDED TOGETHER~~].--  
7 Every voter who knowingly [~~hands to the presiding judge~~]  
8 attempts to vote on two or more [emergency] paper ballots  
9 [folded together] is guilty of a fourth degree felony."

10 Section 24. Section 1-12-59 NMSA 1978 (being Laws 1977,  
11 Chapter 222, Section 62) is amended to read:

12 "1-12-59. [~~EMERGENCY SITUATIONS--PERSON AUTHORIZED TO~~  
13 ~~RECEIVE EMERGENCY~~] VIEWING MARKED PAPER BALLOT.--~~[Only the~~  
14 ~~presiding judge shall receive from any voter an emergency paper~~  
15 ~~ballot prepared by such voter.]~~ No person shall [~~examine or~~]  
16 solicit the voter to show [~~his emergency~~] the voter's marked  
17 paper ballot."

18 Section 25. Section 1-12-61 NMSA 1978 (being Laws 1977,  
19 Chapter 222, Section 64) is amended to read:

20 "1-12-61. [~~EMERGENCY SITUATIONS~~] REMOVAL OF [~~EMERGENCY~~]  
21 PAPER BALLOTS FROM POLLING PLACE.--No person shall remove any  
22 [~~emergency~~] paper ballot from any polling place [~~before the~~  
23 ~~completion of the ballot count~~] unless authorized by law."

24 Section 26. Section 1-12-62 NMSA 1978 (being Laws 1977,  
25 Chapter 222, Section 65, as amended) is amended to read:

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1 "1-12-62. [~~EMERGENCY SITUATIONS--EMERGENCY~~] PAPER  
2 BALLOTS--SPOILED OR DEFACED.--

3 A. A voter who accidentally spoils or erroneously  
4 prepares [~~his emergency~~] the voter's paper ballot may return  
5 the spoiled or erroneously prepared [~~emergency~~] paper ballot to  
6 the presiding judge and receive a new [~~emergency~~] paper ballot.

7 B. The presiding judge in delivering the new  
8 [~~emergency~~] paper ballot shall announce the name of the voter  
9 and the number of the new [~~emergency~~] paper ballot in an  
10 audible tone.

11 C. Upon the announcement of the presiding judge,  
12 the election clerks shall [~~cross out the number of the spoiled~~  
13 ~~or erroneously prepared emergency paper ballot~~] make a record  
14 in the signature roster and checklist of registered voters  
15 [~~with a single line and shall insert in lieu thereof the number~~  
16 ~~of the new emergency paper~~] that the voter received a  
17 replacement ballot.

18 D. The [~~presiding judge~~] voter shall mark the  
19 spoiled or erroneously prepared [~~emergency~~] paper ballot with  
20 the word "SPOILED" and shall place it in a separate envelope  
21 marked "SPOILED BALLOTS", which shall be returned to the county  
22 clerk."

23 Section 27. Section 1-12-63 NMSA 1978 (being Laws 1977,  
24 Chapter 222, Section 66) is amended to read:

25 "1-12-63. [~~EMERGENCY SITUATIONS~~] ELECTION JUDGES--UNUSED  
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1 [EMERGENCY] PAPER BALLOTS.--Immediately upon the time of the  
2 closing of the polls [~~and before any ballot box is unlocked~~],  
3 the election judges and presiding judge, in the presence of  
4 those lawfully permitted to be present, shall publicly destroy  
5 all unused [~~emergency~~] paper ballots."

6 Section 28. Section 1-12-65 NMSA 1978 (being Laws 1977,  
7 Chapter 222, Section 68, as amended) is amended to read:

8 "1-12-65. EMERGENCY SITUATIONS--[EMERGENCY] PAPER  
9 BALLOTS--COUNTING AND TALLYING PROCEDURES.--

10 A. The presiding judge and the election judges,  
11 assisted by the election clerks, shall count and tally the  
12 [~~emergency~~] paper ballots that were not tabulated by the  
13 electronic vote tabulator and certify the results of the  
14 election on the form on the tally sheet setting opposite the  
15 name of each candidate in figures the total number of votes  
16 cast for the candidate, and they shall set forth in the spaces  
17 provided therefor the total number of votes cast for and  
18 against each constitutional amendment and other questions.

19 [~~Emergency~~] Paper ballots not marked as required by the  
20 Election Code shall not be counted. The precinct board shall  
21 sign the tally sheet certificate.

22 B. The counting and tallying of [~~emergency~~] paper  
23 ballots in emergency situations shall be in accordance with  
24 procedures prescribed by the secretary of state."

25 Section 29. Section 1-12-66 NMSA 1978 (being Laws 1977,

1 Chapter 222, Section 69, as amended) is amended to read:

2 "1-12-66. [~~EMERGENCY SITUATIONS--EMERGENCY~~] PAPER  
3 BALLOTS--SIGNATURE ROSTERS, CHECKLIST OF VOTERS AND TALLY  
4 SHEETS--DISPOSITION.--

5 A. After the counting and tallying of [~~emergency~~]  
6 paper ballots are completed and after all certificates have  
7 been executed, the presiding judge and the two election judges  
8 shall place [~~one copy of the signature roster~~] the checklist of  
9 voters and one copy of the tally sheet in the stamped,  
10 addressed envelope provided for that purpose and an election  
11 judge shall immediately mail it to the secretary of state.

12 B. The [~~remaining copy of the~~] signature roster and  
13 the original tally sheet shall be returned to the county clerk.  
14 The signature roster and the tally sheet shall not be placed in  
15 the ballot box.

16 C. Signature rosters, checklists of registered  
17 voters and tally sheets in the custody of the county clerk and  
18 the secretary of state may be destroyed three years after the  
19 election to which they apply."

20 Section 30. Section 1-12-67 NMSA 1978 (being Laws 1977,  
21 Chapter 222, Section 70, as amended) is amended to read:

22 "1-12-67. [~~EMERGENCY SITUATIONS--EMERGENCY~~] PAPER BALLOTS  
23 [~~MATERIAL~~] TO BE PLACED IN BALLOT BOX.--[~~A.~~] After the  
24 [~~emergency~~] paper ballots are tallied, the precinct board shall  
25 place [~~the following in the ballot box:~~

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1                   ~~(1)~~ the bundles of counted [~~emergency~~] paper  
2 ballots

3                   ~~[(2) the envelopes containing spoiled ballots;~~  
4 and

5                   ~~(3) the envelopes containing rejected ballots.~~

6                   B. ~~After the required items have been placed]~~ in  
7 the ballot box and the ballot box shall be closed and locked."

8                   Section 31. Section 1-12-68 NMSA 1978 (being Laws 1977,  
9 Chapter 222, Section 71, as amended) is amended to read:

10                   "1-12-68. [~~EMERGENCY SITUATIONS--EMERGENCY~~] PAPER  
11 BALLOTS--COUNTY CANVASS--WHEN RECOUNT IS REQUIRED.--

12                   A. If it appears that defective returns cannot be  
13 corrected without a recount of the [~~emergency~~] paper ballots,  
14 the county canvassing board shall immediately notify the  
15 district court in writing.

16                   B. The district court shall fix a time and place,  
17 which shall be not more than one week after receipt of notice  
18 from the county canvassing board, for a recount of the  
19 [~~emergency~~] paper ballots from the precinct.

20                   C. The county clerk shall immediately notify the  
21 county [~~chairmen~~] chairs of the political parties [~~who~~] that  
22 participated in the election of the time and place of the  
23 recount.

24                   D. At the time and place set by the district court,  
25 the ballot box shall be opened in the presence of the district

1 judge or some person designated by ~~him~~ the district judge to  
 2 act for the district court, the precinct board, the county  
 3 canvassing board and other persons desiring to be present.

4 E. The precinct board shall then recount the  
 5 ~~emergency~~ paper ballots and make a new tally sheet  
 6 certificate in duplicate to conform to the facts.

7 F. After the recount is completed, the precinct  
 8 board shall replace in the ballot box the ~~emergency~~ paper  
 9 ballots and other items taken therefrom and shall lock and  
 10 return the ballot box and one key to the county clerk. The  
 11 other key shall be returned to the district court or its  
 12 representative.

13 G. After being properly corrected, the signature  
 14 roster and tally sheets shall be disposed of as in the first  
 15 instance: one each to the county clerk and one each to the  
 16 secretary of state."

17 Section 32. Section 1-14-14 NMSA 1978 (being Laws 1969,  
 18 Chapter 240, Section 343, as amended) is amended to read:

19 "1-14-14. RECOUNTS--RECHECKS--APPLICATION.--

20 A. Whenever any candidate for any office for which  
 21 the state canvassing board or county canvassing board issues a  
 22 certificate of nomination or election believes that any error  
 23 or fraud has been committed by any precinct board in counting  
 24 or tallying the ~~emergency paper ballots or absentee~~ ballots,  
 25 in the verification of the votes cast on the voting machines or

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1 in the certifying of the results of any election whereby the  
2 results of the election in the precinct have not been correctly  
3 determined, declared or certified, the candidate, within six  
4 days after completion of the canvass by the proper canvassing  
5 board, may have a recount of the [~~emergency paper ballots or~~  
6 ~~absentee~~] ballots, or a recheck of the votes shown on the  
7 voting machines, that were cast in the precinct.

8 B. In the case of any office for which the state  
9 canvassing board issues a certificate of nomination or  
10 election, application for recount or recheck shall be filed  
11 with the secretary of state.

12 C. In the case of any office for which the county  
13 canvassing board issues a certificate of nomination or  
14 election, application for recount or recheck shall be filed  
15 with the district judge for the county in which the applicant  
16 resides."

17 Section 33. Section 1-16-12 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 385, as amended) is amended to read:

19 "1-16-12. STATE CONSTITUTIONAL AMENDMENTS--GENERAL  
20 ELECTIONS.--At all general elections at which any proposed  
21 constitutional amendment or question is submitted to the  
22 voters, the [~~emergency paper ballot or absentee ballot on the~~]  
23 proposed constitutional amendment or question shall be printed  
24 on the [~~emergency paper ballot or absentee~~] ballot for the  
25 election of officers."

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1           Section 34. Section 1-20-9 NMSA 1978 (being Laws 1969,  
2 Chapter 240, Section 433, as amended) is amended to read:

3           "1-20-9. FALSIFYING ELECTION DOCUMENTS.--Falsifying  
4 election documents consists of performing any of the following  
5 acts willfully and with knowledge and intent to deceive or  
6 mislead any voter, precinct board, canvassing board or other  
7 election official:

8           A. printing, causing to be printed, distributing or  
9 displaying false or misleading instructions pertaining to  
10 voting or the conduct of the election;

11           B. printing, causing to be printed, distributing or  
12 displaying any official ballot, sample ballot, facsimile  
13 diagram [~~ballot label~~] or pretended ballot [~~which~~] that  
14 includes the name of any person not entitled by law to be on  
15 the ballot, or omits the name of any person entitled by law to  
16 be on the ballot, or otherwise contains false or misleading  
17 information or headings;

18           C. defacing, altering, forging, making false  
19 entries in or changing in any way a certificate of nomination,  
20 registration record or election return required by or prepared  
21 and issued pursuant to the Election Code;

22           D. suppressing any certificate of nomination,  
23 registration record or election return required by or prepared  
24 and issued pursuant to the Election Code;

25           E. preparing or submitting any false certificate of

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1 nomination, registration record or election return; or

2 F. knowingly falsifying any information on a  
3 nominating petition.

4 Whoever falsifies election documents is guilty of a fourth  
5 degree felony."

6 Section 35. Section 1-22-10 NMSA 1978 (being Laws 1985,  
7 Chapter 168, Section 12, as amended) is amended to read:

8 "1-22-10. BALLOTS.--

9 A. The proper filing officer shall determine  
10 whether a candidate filing a declaration of candidacy is a  
11 registered qualified elector of the state residing within the  
12 school district. If the candidate is so qualified and no  
13 withdrawal of candidacy has been filed as provided in the  
14 School Election Law, the proper filing officer shall place the  
15 candidate's name on the ballot for the position specified in  
16 the declaration of candidacy. A declaration of candidacy shall  
17 not be amended after it has been filed with the proper filing  
18 officer.

19 B. Ballots for the school district election shall  
20 be prepared by the proper filing officer and printed by the  
21 thirtieth day preceding the election. The cost of printing the  
22 ballots shall be paid by the school district. The proper  
23 filing officer shall furnish printed ballots to the county  
24 clerk of each county in which the school district is situate.  
25 The printed ballot shall contain the name of each person who is

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1 a candidate and the position on the board for which [~~he~~] the  
2 person is a candidate. The ballot shall also contain all  
3 questions to be submitted to the voters of the district as  
4 certified to the proper filing officer by the board.

5 C. Paper ballots [~~and ballot labels~~] shall be  
6 printed in a form in substantial compliance with the provisions  
7 of Section 1-12-44 NMSA 1978 and in compliance with the  
8 provisions of the federal Voting Rights Act of 1965, as  
9 amended.

10 D. A school district election shall be a  
11 nonpartisan election, and the names of all candidates shall be  
12 listed on the ballot without party or slate designation. The  
13 order in which the names of candidates are listed on the ballot  
14 shall be determined by lot.

15 E. Whenever two or more members of the board are to  
16 be elected for terms of the same length of time, the positions  
17 shall be numerically designated on the ballot as "position  
18 one", "position two" and such additional consecutively numbered  
19 positions as are necessary, but only one member shall be  
20 elected for each position.

21 F. Space shall be provided on each ballot for a  
22 voter to write in the name of one candidate for each position  
23 to be filled when a declaration of intent to be a write-in  
24 candidate has been filed.

25 G. Voting machines shall be used for the recording

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1 of votes cast in a school district election; provided that  
2 paper ballots may be ~~used~~ hand counted in lieu of using a  
3 voting machine to tabulate ballots for:

4 (1) school districts of less than five hundred  
5 average daily membership; or

6 (2) school district elections in which only  
7 one candidate has filed a declaration of candidacy for each  
8 position to be filled at the election, no declared write-ins  
9 have filed for any position and there are no questions or bond  
10 issues on the ballot and notwithstanding any other provision in  
11 ~~[this chapter; or~~

12 ~~(3) for emergency ballots in case of a~~  
13 ~~malfunction of the voting machine]~~ the Election Code."

14 Section 36. Section 1-22-18 NMSA 1978 (being Laws 1985,  
15 Chapter 168, Section 20) is amended to read:

16 "1-22-18. WRITE-IN CANDIDATES.--

17 A. Write-in candidates for the office of board  
18 member shall be permitted in school district elections.

19 B. A person may be a write-in candidate only if  
20 ~~[he]~~ the person has the qualifications to be a candidate for  
21 membership on the board in the school district election as  
22 provided in the School Election Law.

23 C. A person desiring to be a write-in candidate for  
24 the office of board member shall file with the proper filing  
25 officer a declaration of intent to be a write-in candidate.

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1 The declaration shall be filed before 5:00 p.m. on the thirty-  
2 fifth day preceding the date of the election.

3 D. A write-in vote shall be counted and canvassed  
4 only if:

5 (1) the name written in is the name of a  
6 declared write-in candidate and shows two initials and last  
7 name; first name, middle initial or name and last name; first  
8 and last name; or the full name as it appears on the  
9 declaration of intent to be a write-in candidate and if  
10 misspellings of those combinations can be reasonably determined  
11 by a majority of the members of the precinct board to identify  
12 a declared write-in candidate; and

13 (2) the name is written [~~in the proper slot on~~  
14 ~~the voting machine or~~] on the proper line provided on the  
15 [~~paper ballot, absentee ballot or emergency~~] ballot for write-  
16 in votes for the office and position for which the candidate  
17 has declared [~~his~~] intent and the voter has followed the  
18 directions for voting for the write-in candidate.

19 E. At the time of filing the declaration of intent  
20 to be a write-in candidate, the write-in candidate shall be  
21 considered a candidate for all purposes and provisions relating  
22 to candidates in the School Election Law except that [~~he shall~~  
23 ~~not be entitled to have his~~] the write-in candidate's name  
24 shall not be printed on the ballot.

25 F. A write-in vote shall be cast by writing in the

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1 name. As used in this section, "write-in" does not include the  
2 imprinting of any name by rubber stamp or similar device or the  
3 use of a preprinted sticker or label."

4 Section 37. REPEAL.--Sections 1-12-24, 1-12-45 through  
5 1-12-46, 1-12-48, 1-12-50, 1-12-52 through 1-12-54, 1-12-56,  
6 1-12-60, 1-12-64 and 1-16-12 NMSA 1978 (being Laws 1969,  
7 Chapter 240, Section 278, Laws 1977, Chapter 222, Section 48,  
8 Laws 1991, Chapter 105, Section 35, Laws 1977, Chapter 222,  
9 Sections 49, 51, 53, 55 through 57, 59, 63 and 67 and Laws  
10 1969, Chapter 240, Section 385, as amended) are repealed.